Turkey. It was held by the Courts below and by this Board that his claim was justified and that he was entitled to damages. The question arose as to the correct amount of damages to be awarded to him on the footing that he was serving in Turkey at the material date. His salary had been paid according to the system in vogue in Turkey, the nature of which has been explained above. The effect of that system was to give a monthly salary expressed in terms of Turkish currency arrived at by converting into Turkish currency the sterling figure into which the basic salary had been converted by the conventional coefficient, presumably with due regard also to any extra allowances. The Board agreed with the majority of the Judges of the Supreme Court that this was the basis on which the pension to which Chakarian would have been entitled was to be calculated. There was no suggestion that the figures were to be taken as on a gold basis. The only point at issue was whether the rate of conversion of the figure of Turkish currency for the purpose of a decree in sterling was the rate current at the time of dismissal or that current at the date of the decree. The rate for the former date which was accepted as a true date was taken by agreement at 720 piastres to the pound. If this method was correct, as the Courts held that it was, it is evident that the matter was not dealt with as on the footing of a parity with gold. In *Ottoman Bank of Nicosia* v. *Dascalopoulos*, (*supra*), the Board did not, as their Lordships think, appreciate the effect of that decision which the Board regarded as showing that the salary was assumed to be, even in Turkey, a salary in Turkish gold pounds. Their Lordships now have had the advantage of the elaborate evidence on the Turkish currency law and are unable to accept that view. They agree with the decision of 1930 which is consistent with the decision they now arrive at in the present case, and is not consistent with the decision in *Ottoman Bank of Nicosia* v. *Dascalopoulos*, (*supra*).

In coming to the conclusion that the appeal should be allowed, the Board have had to consider what order should be made in their judgment on the question of costs. If the respondent were ordered to pay the costs as would be done in the ordinary course it would amount in effect to depriving him of his pension for the future and indeed in all probability to impose a much more serious liability. The appellants, however, through Mr. Pritt, have shown that they have appreciated what hardship to the respondent would be thus involved and have stated that they are willing to leave the question of costs to the untrammelled discretion of this Board. Their Lordships feel that this case should be treated as one of very exceptional character particularly because of the great conflict of judicial opinion, and of the importance of having a decision which may govern in future many other cases under the pension regulations. As the appellants have very fairly and generously left the matter to them, they feel justified in taking the view that no order should be made as to costs either here or below. Their Lordships will therefore humbly advise His Majesty that this appeal should be allowed, the judgments of both Courts in Cyprus set aside and the action dismissed.

Appeal allowed.

Solicitors for Appellants—*Bischoff, Coxe & Co.*

Solicitors for the Respondent—*Gisbourne & Co.*

[PRIVY COUNCIL]

(Appeal from the High Court of Judicature, Allahabad.)

LORD THANKERTON, SIR SHADI LAL & SIR GEORGE RANKIN.

December 20, 1937.

BABU MONMOHAN .....Appellant.

vs.

BALDEO NARAIN TANDON &..... ORS. .....Respondents.

[PRIVY COUNCIL No. 93 of 1934]

Limitation—money lent—banker's cheque endorsed in lender's favour—transfer of cheque to borrower—payment—period of limitation—Indian Limitation Act, 1908, First Schedule, Articles 57, 58.

Article 58 of the First Schedule to the Indian Limitation Act, 1908, which prescribes a period of three years for a suit for money lent when the lender has given a cheque for the money lent by him, applies to a case, in which the lender draws his own cheque. If he makes the loan by transfering to the borrower a cheque which had been drawn by another person and endorsed in his favour by the payee, the suit is governed by Article 57 and the period of limitation begins to run from the date on which the cheque is paid and the money passes into the hands of the borrower.

A cheque is paid when it is cashed by the lender's bankers. It is only then that the loan is made by the lender to the borrower. The mere handing over of a cheque by the lender to the borrower does not amount to a payment of the cheque.

The period, prescribed by Article 58, begins to run against the lender, not from the date when the cheque received by the borrower is given by him to his own bank, and the amount is credited to him by the bank, but from the date when the cheque is cashed.

Garden v. *Bruce*, (1868) L.R. 3 C.P. 300 referred to.

A. M. Dunne, K.C., and *Rashid* for the Appelant.

H. R. Abdul Majid and *Chinni Durai* for the Respondents.

Cur. Ad. Vult.

The judgment of the Board was delivered by—

SIR SHADI LAL.—This appeal arises out of a suit brought by the Plaintiff Baldeo Narain Tandon (hereinafter referred to as Tandon) against a firm called the United Provinces Aniline Dyes Company (described as "the firm" for convenience) for the recovery of Rs. 14,950 with interest. The High Court of Judicature at Allahabad, dissenting from the trial Judge, has granted a decree in favour of the Plaintiff; and from that decree Manmohan Das, one of the partners of the firm, has appealed to His Majesty in Council.

The plaintiff stated that the sum of Rs. 14,950 was advanced by him as a loan to the firm by a cheque for that amount. The cheque in question was drawn by the Secretary of the Finance Board of the Congress Reception Committee, Amritsar, on the 12th August, 1923, in favour of another firm called Bond Brothers for the price of the work done by them for the Reception Committee. It was endorsed by two of the partners of Bond Brothers, namely, Tandon and Banerji, in favour of one Sri Kishan Das Wahal.

Now, it is common ground that Sri Kishan Das Wahal was the manager of the Defendant firm, and it appears that the money payable on the cheque was received by him on behalf of the firm. The Plaintiff claims that he received the cheque from his partners in Bond Brothers in part payment of the money due to him by the latter, and that he made it over to the firm as a loan.

The first question for consideration is whether the firm received the money, which was payable on the cheque. It is conceded that, if the money was received by the firm, it must be deemed to be a loan made by the Plaintiff. Now, a satisfactory proof of the receipt of the money is furnished by the account books of the firm; and it cannot, therefore, be disputed that the Plaintiff is entitled to recover it.

The money due on the cheque was paid on the 30th August, 1923, by the Central Bank of India at Amritsar, on which the cheque was drawn, and the suit for its recovery was instituted on the 27th August, 1926. It is suggested that the suit is governed by Art. 58 of the first schedule to the Indian Limitation Act, 1908, which prescribes a period of three years for a suit for the recovery of money lent when the lender has given a cheque for the money lent by him. That article, however, applies to a case, in which the lender draws his own cheque and gives it to the borrower. It does not govern a suit in which he transfers to the borrower a cheque which had been drawn by another person and endorsed in his favour by the payee. The period of three years prescribed by the article begins to run from the date on which the cheque is paid and a cheque is paid when it is cashed by the lender's bankers; *Garden* v. *Bruce*, (1868) L.R. 3 C.P. 300. It is only then that the lender's money passes into the hands of the borrower, and the loan is made by the former to the latter; the mere landing over of a cheque by the lender to the borrower does not amount to a payment of the cheque. Nor does the period begin to run against the lender when the cheque received by the borrower is given by him to his own bank, and the amount is credited to him by the bank.

The suit does not, therefore, come within the ambit of Art. 58, but is governed by Art. 57, which is a general article applicable to a suit for the recovery of money payable for the money lent; and the *terminus a quo* is the date on which the loan is made. The loan in the present case was made on the 30th August, 1923, when the money was received by the borrower; and the suit, which was brought within three years from that date must be held to be within the time.

The only other point argued on behalf of the Appellant, Manmohan Das, is that he was not a partner in the firm in question, when the loan was contracted; and he cannot, therefore, be liable for the payment of the debt. The learned Judges of the High Court at Allahabad, upon an examination of the evidence, have decided that the Appellant was a partner at the time of the transaction, and this conclusion is supported, not only by the testimony of the Plaintiff, but also by the balance sheets of the firm. The evidence, which stands unrebutted, shows that the Appellant was a partner in the firm when the money was lent, and it is immaterial that he severed his connection with the firm afterwards.

The judgment given by the High Court cannot be challenged on any of the grounds urged on behalf of the Appellant, and must be affirmed. Their Lordships will, therefore, humbly advise His Majesty that the appeal should be dismissed.

Appeal dismissed.

Solicitors for the Appellant—*Nehra & Co.*

Solicitors for the Respondents—*Douglas, Grant & Dold.*